IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L).2260 OF 2007

Mahadeorao Ganuji Tayade : Petitioner

versus

State of Maharashtra & ors. : Respondents.

Mr.Uday Warunjikar for the petitioner.

Mr.M.D.Naik, AGP, for Respondent Nos.1 and 2.

Ms.Madhavi Deshpande-Ravuri for Respondent No.3

CORAM : J.N.PATEL &

SMT.NISHITA MHATRE, JJ.

DATED : NOVEMBER 26, 2007.

P.C.

1. The Petitioner has approached this Court as he is aggrieved by the decision taken by Respondent No.3 which was communicated to the petitioner by their letter dated 5/10/2007. The petitioner seeks to have renal transplant and his case was examined along with that of the donor

and Respondent No.3 found that as they were not satisfied with the motive of donation by the donor as out of love and affection, their proposal was rejected by Respondent No.2.

2. It is the case of the petitioner that under the Transplantation of Human Organs Act 1994, Respondent No.3 is not the authorisation committee to take decision in the matter and, therefore, this communication deserves to be quashed and this Court should direct Respondent No.2 to take decision in the matter.

3. In their affidavit in reply Respondent No.3 have clearly stated that they are required to undertake screening of cases as per Circular dated 22.04.2004 issued by authorisation committee but the decision has to be taken by appropriate authority for Mumbai Region i.e. Authorisation Committee constituted under Section 9(4) of the said Act.

4. The learned counsel appearing for Respondent No.3 submits that as Respondent No.3 has no hesitation to forward the case papers along with their opinion to Respondent No.2 which

can take a decision in the matter as required.

5. We may record that the Petitioner never moved Respondent No.2 in the matter. At least after receiving the communication he ought to have approached Respondent No.2 which has an authority to call for the record of the case papers of the petitioner from Respondent No.3 - Hospital and examine the issue and pass appropriate orders under the statute.

6. The learned AGP appearing for Respondent Nos. 1 and 2 submits that Respondent No.2 will take decision in the matter within two weeks as soon as Respondent No.3 forwards the case papers of the petitioner along with its opinion.

7. The learned counsel appearing for Respondent No.3 submits that the medical case papers of the petitioner along with its opinion will be forwarded to Respondent No.2 within a week from today.

8. In view of this, We dispose of this petition with directions to the Respondent No.3 to forward the medical case papers of the

petitioner along with their opinion to Respondent No.2 within a week time from today. On receipt of such papers, Respondent No.2 will take decision in the matter within two weeks. Needless to say that the petitioner would be at liberty to file appropriate papers through Respondent No.3 as required by Respondent No.2 to take fair decision in the matter. Petition stands disposed of accordingly.

[SMT.NISHITA MHATRE,J] **[J.N.PATEL,J]**